

MINUTES OF THE CHESHIRE PLANNING AND ZONING COMMISSION PUBLIC HEARING HELD ON WEDNESDAY, OCTOBER 15, 2014 AT 7:30 P.M. IN COUNCIL CHAMBERS, TOWN HALL, 84 SOUTH MAIN STREET, CHESHIRE CT 06410

Present

Earl J. Kurtz, Chairman; Sean Stollo, Vice Chairman; Edward Gaudio, John Kardaras, Vincent Lentini. Alternate: Jon Fischer

Absent: Lelah Campo, S. Woody Dawson, Gil Linder. Alternates: Leslie Marinaro and Diane Visconti.

Staff: William Voelker, Town Planner

I. CALL TO ORDER

Chairman Kurtz called the public hearing to order at 7:38 p.m.

Mr. Kurtz read the fire safety announcement.

II. ROLL CALL

The clerk called the roll.

III. DETERMINATION OF QUORUM

Following roll call a quorum was determined to be present.

IV. PLEDGE OF ALLEGIANCE

The group Pledged Allegiance to the Flag.

V. BUSINESS

Town Planner Voelker read the call of public hearing for each application.

(Mr. Stollo was recused from applications #1 and #2)

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|---------------------------------------|---------------------|
| 1. Request for Sidewalk Waiver | PH 9/8/14 |
| <u>A.M. Napolitano</u> | PH 9/23/14 |
| Cook Hill Road | PH 10/15/14 |
| | MAD 12/19/14 |
| 2. Subdivision Application | PH 7/28/14 |
| <u>A.M. Napolitano</u> | PH 9/8/14 |
| Cook Hill Road | PH 9/23/14 |
| 8-lots | PH 10/15/14 |
| | MAD 12/19/14 |

Attorney Jay Hershman represented the applicant.

Mr. Voelker read a letter on the applications from the Cheshire Police Department, dated October 15, 2014, into the record.

Attorney Hershman stated the application is complete, and the applicant agrees to continuance of the public hearing until October 27, 2014.

THE PUBLIC HEARING WAS CONTINUED TO OCTOBER 27, 2014

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| 3. Waiver Request of Section 5.5.B.5
of the Subdivision Regulations
<u>Estate of Anneliese L. Platt</u>
628 Wallingford Road | PH 9/23/14
PH 10-15-14
MAD 12/19/14 |
| 4. Subdivision Application
<u>Estate of Anneliese L. Platt</u>
628 Wallingford Road
3-lots | PH 9/23/14
PH 10/15/14
MAD 12/19/14 |
| 5. Special Permit Application
<u>Estate of Anneliese L. Platt</u>
628 Wallingford Road
Rear Lot Access | PH 10-15-14
MAD 12/19/14 |

Matt Duscay, P.E. Milone & MacBroom, represented the applicant. Mr. Duscay stated the property is located at 628 Wallingford Road, adjacent to Talmadge Road, and it is 3.6 acres, R-40 Zone, abutted by residential property on all sides. The lot is an open field; has one existing home; topography is flat; there are not wetlands on the site. The proposed development is for 3 lots including the existing house, with the 2 new lots having access via a rear lot access way. The existing barn will be removed as part of the construction. The lots will be served by public water and special surface septic system. The storm water management will be light impact design, with rain gardens. Mr. Duscay stated the application includes a waiver request of Section 5.5.8.5.

Attorney Kevin Hecht, Cheshire CT, represented the applicant, who is the executor of the Platt estate. In his presentation Attorney Hecht explained the history of how the Platt family came to acquire the original 90 acres. Through a series of requests at time of death from some heirs, Keith C. Platt acquired the 3 acre subject parcel on March 3, 1988. This was done by receipt of the 1 acre parcel with the house and barn, and transfers from family members. The remainder of the property was sold for development. On June 15, 1988 Mr. Platt quit claimed the 3 acre subject parcel to himself and his wife Ann Platt. They executed last wills and testaments so that at the time of their deaths the house and buildings known as 628 Wallingford Road, together with 1 full acre to daughter Amy Platt, and the remainder of the parcel to be divided between the 3 children. Following the death of Mr. Platt on April 4, 1989, the wife and daughter Amy Platt (who is disabled) lived in the existing house. Mrs. Platt passed away, and Amy Platt continues to live in the house.

At the time of the execution of the last will and testament, Section 5.5 of the Subdivision Regulations permitted the area requirements. In November 1992 the Planning and Zoning Commission modified Section 5.5 of the Subdivision Regulations effective December 4, 1992 so the area of the access way could not be included in computing the minimum area requirements of any of the lots serving the access way. Prior to that time the 3 acre parcel could be legally subdivided without a waiver. All 3 lots contain the 40,000 square foot requirement, and comply with Section 32, Schedule B, with the exception for the computation of the access way in the lots. Granting of the waiver will be in compliance with CGS 8-26.

According to Attorney Hecht there are unique circumstances for the family with the 3 acre parcel served by rear lot access way. There are 3 children, 3 acre lot, an estate plan which his upset by the amendment of the regulations. The Platts had 3 acres, planned for a 3 acre subdivision, the regulations changed, all the other land had been sold, and there was no way to acquire more land. Granting of the waiver will not have an adverse effect on public safety, adjacent property, nor will it violate the zoning regulations. Mr. Hecht said it is clearly one acre zone; the applicant has 3-one acre lots; the difference would be the existing lot/homestead with 2 additional lots. Mr. Hecht stated the granting of the waiver will not violate the Plan of Development, and requested the Commission approve the waiver request.

Town Planner Voelker asked Attorney Hecht to verify the 1993 regulation amendment, get copies of the public hearing minutes for documentation and Commission review.

Regarding the 2 lots, Mr. Lentini asked if they are for other family members will live on them or will they be sold.

Mr. Hecht said it was not specified to divide the parcel into 3 lots, but the intention was 3 children, 3 lots, with the existing house for the disabled daughter, and the other 2 for each of the other 2 daughters. There is no condition or stipulation in the estate plan, but this was the intention.

Regarding ownership of the parcel, Mr. Hecht said it is one 3 acre lot, with the intention to create 3 lots.

Without the waiver, Mr. Lentini asked what the applicant would do, i.e. have one lot in the back.

Attorney Hecht said it would be a 2 lot subdivision, with one lot being 2 acres.

Mr. Duscaj stated that without the waiver the applicant would need a variance for frontage from the first lot.

With regard to amending the regulations in 1993, Mr. Gaudio questioned why the Commission would have done this. He also said he does not see a hardship with the waiver request application.

Attorney Hecht will provide copies of the public hearing minutes from 1993. Regarding the hardship he said it would be the clear intent to acquire and compile the 3 acre parcel into 3 one acre lots. Without a change in the regulations this could have been done without a waiver. Mr. Hecht also stated that the estate plan is upset because of the amendment to the regulations after acquisition of the property was completed.

With the waiver, Mr. Voelker said they could have rear lot access over the first lot, and the net effect of the regulation amendment was the access.

Mr. Kardaras clarified that without the waiver the applicant would have one 3 acre lot and one house.

It was noted by Attorney Hecht that unless the ZBA granted a variance it would be impossible to follow through with the intent of the estate. He said the hardship is that the entire plan would be upset, and there is inability for two of the children to obtain their inheritance. The will of Mrs. Platt said the one acre parcel with the house goes to the disabled daughter. Attorney Hecht noted that without the waiver or ZBA variance it would be one 3-acre parcel and terms of the will would not be carried out.

Mr. Gaudio stated the parties could sell the entire parcel of 3 acres.

Attorney Hecht will submit the verbiage of the will to the Commission. He read part of the will into the record which states one acre and house to Amy Platt, and the remainder of the parcel, 2 acres, to the 3 children. The parcel does have the 50 foot wide right-of-way under the regulations.

PUBLIC COMMENTS AND QUESTIONS

Earl Kurtz Jr. abutting neighbor at 648 Wallingford Road, asked about the pipe on the Platt property that used to go under the road to the south side of Wallingford Road. He said there is a depression area where the water collects, about 20 feet within the Platt property line and 20 feet back to Wallingford Road. If there is an access driveway in there, Mr. Kurtz asked what they would do to preserve the water flow in this pipe, if it still exists. He said the pipe may need repair or replacement.

In response, Mr. Dusca explained there is a flared end section pipe, and the Kurtz property drains to this inlet location. The plans show the yard drain in the area to collect drainage, and the pipe will be removed and replaced with the yard drain to collect the discharge at the current point. According to the survey the pipe ties into the 18RCP in the road.

Regarding the 3 lot subdivision, Mr. Kurtz questioned the dates and the will, but he heard one acre to one daughter and remaining property to that daughter plus 2 siblings. He does not think there was an intent to provide 3 building lots. Mr. Kurtz as present when the side line of the subject lot was decided, and it was decided when he bought the remaining property on the north side of Wallingford Road. This left Keith Platt with

3 acres for farming, without any mention of lots for his children. Mr. Kurtz said he is unsure why there is a waiver request, which is an exemption from the regulations and he believes regulations are in place for a purpose. For the October 27th meeting, Mr. Kurtz will submit something in writing to the PZC by October 23rd.

THE PUBLIC HEARING WAS CONTINUED TO OCTOBER 27, 2014.

VI. ADJOURNMENT

MOTION by Mr. Lentini; seconded by Mr. Kardaras.

MOVED to adjourn the public hearing at 8:15 p.m.

VOTE The motion passed unanimously by those present.

Attest:

Marilyn W. Milton, Clerk